

**Introduced by Senator Poochigian**

February 21, 2006

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An act to add Section 530.55 to the Penal Code, relating to crime.

LEGISLATIVE COUNSEL'S DIGEST

SB 1388, as amended, Poochigian. Phishing.

Existing law provides that it is unlawful for any person by means of a Web page, electronic mail message, or otherwise through use of the Internet, solicit, request, or take any action to induce another person to provide identifying information by representing itself to be a business without the authority or approval of the business.

This bill would provide that engaging in that activity *with the intent to defraud* is a crime punishable by a fine not exceeding \$1,000, imprisonment in a county jail for a period not exceeding one year, or by both that fine and imprisonment, or by a fine not exceeding \$10,000, imprisonment in the state prison, or by both that fine and imprisonment.

*Because this bill would create a new crime, this bill would impose a state-mandated, local program.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 530.55 is added to the Penal Code, to  
2 read:

3 530.55. (a) Every person who, *with the intent to defraud*,  
4 engages in unlawful phishing is guilty of a public offense, and  
5 upon conviction therefor, shall be punished by a fine not to  
6 exceed one thousand dollars (\$1,000), imprisonment in a county  
7 jail not to exceed one year, or by both that imprisonment and  
8 fine, or by a fine not to exceed ten thousand dollars (\$10,000),  
9 imprisonment in the state prison for 16 months, or two or three  
10 years, or by both that fine and imprisonment.

11 (b) For purposes of this section “unlawful phishing” means the  
12 activity defined in Section 22948.2 of the Business and  
13 Professions Code.

14 (c) Nothing in this section shall preclude prosecution under  
15 both this section and Section 530.5, or any other provision of  
16 law.

17 SEC. 2. No reimbursement is required by this act pursuant to  
18 Section 6 of Article XIII B of the California Constitution because  
19 the only costs that may be incurred by a local agency or school  
20 district will be incurred because this act creates a new crime or  
21 infraction, eliminates a crime or infraction, or changes the  
22 penalty for a crime or infraction, within the meaning of Section  
23 17556 of the Government Code, or changes the definition of a  
24 crime within the meaning of Section 6 of Article XIII B of the  
25 California Constitution.